

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

EDWARD OLURANTI IDOWU,	:	NO. 1:03-CV-00709
	:	
	:	
Petitioner,	:	
	:	OPINION AND ORDER
v.	:	
	:	
MICHAEL WALTON, HAMILTON	:	
COUNTY CHIEF PROBATION	:	
OFFICER,	:	
	:	
Respondent.	:	

This matter is before the Court on the Magistrate Judge's March 3, 2006 Report and Recommendation (doc. 12). No Objection has been filed.

On October 16, 2003, Petitioner petitioned the Court for a Writ of Habeas Corpus, pursuant to 28 U.S.C. §2254 (doc. 1). After a thorough review of the facts and the law, the Magistrate Judge found that Petitioner's petition for writ of habeas corpus should be denied (doc. 12). Petitioner, a citizen of Nigeria, challenges his October 2000 conviction premised on his entry of two guilty pleas to two charges of gross sexual imposition (Id.). Petitioner argues he should be granted a writ of habeas corpus because neither his counsel nor the trial court advised him of the deportation consequences of his guilty pleas (Id.).

The Magistrate Judge found that notwithstanding Petitioner's failure to exhaust state remedies, the Court may

address his claims for relief and deny his application on the merits (Id.). Next, the Magistrate Judge opined that Petitioner is not entitled to relief because his constitutional claims lack merit and his state law claims of error are not cognizable in this federal habeas proceeding (Id.). Of particular importance, the Magistrate Judge noted that Petitioner executed a plea form indicating that Petitioner knowingly, voluntarily, and intelligently entered his pleas while knowing that this "may have the consequence of deportation, exclusion from the admission to the United States, or denial of naturalization pursuant to the laws of the United States" (Id.).

Proper notice was provided to the Parties under Title 28 U.S.C. § 636(b)(1)(C), including the notice that they would waive further appeal if they failed to file an objection to the Magistrate Judge's Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981).

Having reviewed this matter de novo, pursuant to Title 28 U.S.C. § 636, the Court concludes that the Magistrate Judge's Report and Recommendation is well-reasoned and correct. Accordingly, the Court ADOPTS the Magistrate Judge's Report and Recommendation in all respects, DENIES WITH PREJUDICE Petitioner's Petition for a Writ of Habeas Corpus (doc. 1), and FINDS that a certificate of appealability should not issue because Petitioner has failed to make a substantial showing of the denial of a

constitutional right, which may be remedied in this federal habeas corpus proceeding, based on his claims for relief addressed on the merits. 28 U.S.C. 2253(c); Fed R. App. P. 22 (b). Finally, the Court CERTIFIES pursuant to 28 U.S.C. § 1915(a)(3) that with respect to any application by Petitioner to proceed on appeal in forma pauperis, an appeal of this Order would not be taken in "good faith" and therefore the Court DENIES Petitioner leave to appeal in forma pauperis upon a showing of financial necessity. Fed. R. App. P. 24(a); Kincade v. Sparkman, 117 F.3d 949, 952 (6th Cir. 1997).

SO ORDERED.

Dated: April 18, 2006

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge